

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**JOHN MONTOYA,**

**Plaintiff,**

**v.**

**CMRE FINANCIAL SERVICES, INC.,**

**Defendant.**

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**CASE NO. 3:16-cv-333**

**NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendant, CMRE Financial Services, Inc. (referred to hereafter as “CMRE”), hereby files this Notice of Removal pursuant to 28 U.S.C. § 1441 and § 1446, removing the above-captioned case to the United States District Court for the Northern District of Texas, Dallas Division, and in support thereof respectfully show the following:

1. This suit was originally filed in Dallas County, Texas as Cause No. DC-15-05666 styled as *John Montoya v. CMRE Financial Services, Inc.* (referred to hereafter as “the state suit”).

2. Although the suit was not originally removable from state court, it has now become removable within the last thirty days due to Plaintiff’s notice of intent to pursue a cause of action under the Telephone Consumer Protection Act.

3. If a suit is not originally removable, but becomes removable later, the suit can be removed if the defendant files the notice of removal within 30 days after the defendant’s receipt, “through service or otherwise,” of a copy of an amended pleading, motion, order, or other paper from which the defendant can ascertain the case has become removable. 28 U.S.C. § 1446(b)(3); *Crockett v. R.J. Reynolds Tobacco Co.*, 436 F.3d 529, 532 (5th Cir. 2006).

4. Some examples of qualifying “other papers” courts have found include: post-complaint correspondence from plaintiff, *Addo v. Globe Life & Acc. Ins.*, 230 F.3d 759, 761-62 (5<sup>th</sup> Cir. 2000) (post-complaint demand letter offering to settle); and a court order in a related case, *see, e.g., Green v. R.J. Reynolds Tobacco Co.*, 274 F.3d 263, 267-68 (5<sup>th</sup> Cir. 2001). Plaintiff’s demand correspondence dated January 8, 2016, makes a claim for damages under the Telephone Consumer Protection Act 47 U.S.C. § 227(b)(1)(A)(iii).

5. Defendant has attached an Index of Attachments to this notice itemizing Exhibits A-D as required by 28 U.S.C. § 1446(a) and Local Rule 81 as follows:

- A. A true and correct copy of all process, pleadings, and papers filed and served in this action as of the date of filing this Notice of Removal;
- B. Notice of Removal to be filed in state court; and
- C. List of Parties and Attorneys; and
- D. Declaration.

6. Concurrently with the filing of this Notice of Removal, Defendant provided written notice thereof to the Plaintiff and filed a copy of the notice with the clerk of the state court.

Respectfully submitted,

BUSH & RAMIREZ, PLLC

//s// Keith Wier

Keith Wier; SBN: 21436100

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**ATTORNEY FOR DEFENDANT,  
CMRE FINANCIAL SERVICES, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of February, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and forwarded a true and correct copy to all counsel of record via facsimile as follows:

Michael T. O'Connor  
LAW OFFICES OF DEAN MALONE, P.C.  
900 Jackson Street  
Dallas, Texas 75202

*via facsimile: (214) 670-9904*

//s// Keith Wier

Keith Wier